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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,942	03/26/2004	Markus Singer	TRW(REPA)7046	9879
26294	7590	07/27/2005	EXAMINER	
TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 526 SUPERIOR AVENUE, SUITE 1111 CLEVEVLAND, OH 44114				KIM, SANG K
ART UNIT		PAPER NUMBER		
3654				

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/810,942	SINGER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SANG KIM	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on Response to Election 5/23/05.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 2-11, 15-17 and 19 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 12-14, 18 and 20-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/21, 8/19/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

***Election/Restrictions***

Applicant's election with traverse of Species II, Figures 2-3, claims 1, 12-13, 18 and 20-26 in the reply filed on 5/23/05 is acknowledged. The traversal is on the ground(s) that Species II (Figures 2-3) and III (Figures 4-5) have a deformable element arranged between the pinion and the output member, and only difference is the arrangement of the parts between both Species. However, Species II and III define the same patentable invention and are not patentably distinct, and prior art relevant to Species II would be relevant to Species III. Therefore, both of Species II and III, claims 1, 12-14, 18 and 20-26 should be examined.

The Examiner will examine both Species II and III (Figures 2-5), claims 1, 12-14, 18 and 20-26, since Applicant admits on the record that both Species II and III are not patentably distinct, and prior art relevant to Species II would be relevant to Species III.

Claims 2-11, 15-17 and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/23/05. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement in other Species, the election has been treated as an election without traverse.

***Claim Rejections - 35 USC § 112 1<sup>st</sup> Paragraph***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 14 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 states the piston teeth engage into the pinion in order to displace the piston. Since claims 14 and 24 (Species II, figures 4-5) are dependent from claim 1, how is it possible for the pinion (230) to engage the piston teeth when the pinion (230) does not have any teeth to engage?

***Claim Rejections - 35 USC § 112 2<sup>nd</sup> Paragraph***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12-14 are indefinite and vague. Which structural element is considered to be an output element?

Claim 12 is indefinite and vague. What does the phrase mean when it recites, "where it allows said pinion a play with respect to said output element?"

***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 12, 18, 21-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2000-313311.

With respect to claims 1 and 21, JP '311 shows a belt spool (1), a belt tensioner (7), a cylinder, a piston (90) guided displaceably in said cylinder, and a pinion (80), said piston being provided with teeth (91) which can engage into said pinion in order to rotate said pinion upon displacement of said piston, and having at least one deformable element (85) which prevents blocking when said teeth enter into engagement with said pinion, see figures 11-16.

With respect to claims 12 and 18, JP '311 shows said deformable element (85) is in between an output element (25) and said pinion (80), wherein the pinion interacts with respect to the output element.

With respect to claims 22-23, JP '311 shows said pinion (80) coupled with said belt spool (1), wherein the belt spool (1) has an undulating extension (25) on which said pinion sits, see figure 1.

With respect to claim 25, JP '311 shows a housing (70), which both the cylinder and bearing sites (near 74, 75) are formed in one piece on both sides of said pinion (80), see figures 6-8.

Claims 1 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2000-302011.

With respect to claims 1 and 21, JP '011 shows a belt spool (16), a belt tensioner (20), a cylinder, a piston guided displaceably in said cylinder, and a pinion (22), said piston being provided with teeth (30) which can engage into said pinion in order to rotate said pinion upon displacement of said piston, and having at least one deformable element (24) which prevents blocking when said teeth enter into engagement with said pinion, see figures 1-2.

With respect to claims 22-23, JP '011 shows said pinion (22) coupled with said belt spool (16), wherein the belt spool (16) has an undulating extension (i.e., an end of the shaft) on which said pinion sits, see figure 2.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000-313311, in view of Wier, U.S. Patent NO. 6241173 B1.

JP '311 shows the piston and the housing but does not explain how these parts are manufactured.

Wier '173 explains in the belt retractor how different materials are used such as a die cast metal part for the pawl, see column 2, lines 28-38.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the piston and the housing, or any element into die cast metal part as taught by Wier '173 since diecasting parts provide an extremely sturdy material and weight to the seat belt.

Claims 20 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000-302011, in view of Wier, U.S. Patent NO. 6241173 B1.

JP '011 shows the piston and the housing but does not explain how these parts are manufactured.

Wier '173 explains in the belt retractor how different materials are used such as a die cast metal part for the pawl, see column 2, lines 28-38.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the piston and the housing, or any element into die cast metal part as taught by Wier '173 since diecasting parts provide an extremely sturdy material and weight to the seat belt.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000-313311, in view of Applicant's admission filed on 5/23/05.  
JP '311 discloses the claimed invention except for the pinion with a flange engaging into a recess of the belt spool, which is caused the pinion arrangement. It would have been

obvious to one having ordinary skill in the art at the time the invention was made to make the pinion engage into the belt spool since Applicant admits that arrangement of the parts are not patentably distinct from any relevant prior art and it involves only routine skill in the art.

### ***Allowable Subject Matter***

Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANG KIM whose telephone number is 571-272-6947. The examiner can normally be reached Monday through Friday from 8:00 A.M. to 5:30 P.M. alternating Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.  
Status information for unpublished applications is available through Private PAIR only.  
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SK

7/15/05



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